

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.

CR. NO. 04-10288-RWZ

JOSEPH BALDASSANO

DEFENDANT'S MOTION TO REVOKE ORDER OF DETENTION

Defendant Joseph Baldassano, by his attorney, moves pursuant to 18 U.S.C. § 3145(b) that this Court revoke the order of detention dated July 16, 2004.

On June 24, 2004 a criminal complaint was filed charging Mr. Baldassano and others with conspiracy to distribute oxycodone and substantive distribution of oxycodone in violation of 21 U.S.C. §§ 846 and 841(a)(1).

A consolidated probable cause/detention hearing was held on July 12, 2004 before Magistrate Judge Swartwood.

The Court ruled pursuant to 18 U.S.C. §§ 3142(f)(1)(C) and (f)(2)(A) that there are no condition or combination of conditions that would reasonably assure the safety of any other person or the community if Mr. Baldassano were released.

The Court did not detain Mr. Baldassano as a risk of flight

Mr. Baldassano submits that initial order of detention should be revoked and that the following proposed conditions of release are reasonable and will in fact assure the safety of the community:

1. An appearance bond secured by the equity in his parents home at 220 Washington Street, Gloucester, Massachusetts;
2. Home detention at his parents home and electronic monitoring;
3. Obey all statutory and reporting requirements as ordered by the Court and pre-

trial services office.

Central to the Court's detention order was the fact that Mr. Baldassano was on probation in the Gloucester District Court for possession of oxycodone at the time of this new offense. Indeed, a state court warrant is lodged against Mr. Baldassano for violating his conditions of probation. In the event this Court does order release, Mr. Baldassano must first appear in the Gloucester District Court and obtain his release from state custody. Mr. Baldassano is confident that he will prevail in that effort.

While the offense charged in the federal indictment may post date the state court conviction, Mr. Baldassano's documented addiction to oxycodone, as he related to the pre-trial services officer, underlies both offenses. Mr. Baldassano is now substance free and will abide by any drug treatment plan advocated by pre-trial services or this Court as a condition of his release.

Mr. Baldassano was raised in Gloucester, Massachusetts by his parents Antonino Baldassano and Ignazia Baldassano. Mr. and Mrs. Baldassano immigrated to this country from Italy, became United States citizens, worked hard, raised a family of three children, and purchased a home at 220 Washington Street, Gloucester, Massachusetts. The home has a present fair market value of \$560,000.00 encumbered by a first mortgage to Gloucester Cooperative Bank with a principle balance of \$157,000.00. Mr. and Mrs. Baldassano are prepared to post the equity in their home as a guarantee against their son violating any condition of release.

Joseph Baldassano grew up in the family home and graduated from Gloucester High School in 1999. Thereafter, he enrolled in Wentworth College to study computer science and completed the academic year. He changed his academic focus to marketing and management and transferred to the University of Massachusetts, Lowell to commence his second year of

college. He remained a full time student at UMass, Lowell but because certain credits were not accepted by UMass, he did not graduate this spring. He must complete one course to fulfill his degree requirements. If released, Mr. Baldassano will seek to obtain his college degree.

Mr. Baldassano further relies on the attached affidavit of counsel.

CONCLUSION:

There are specific, strict and reasonable conditions of pre-trial release which will assure the safety of the community. Home detention with an electronic monitoring bracelet, specific curfew, and specific drug testing and/or treatment are appropriate for Mr. Baldassano. Mr. Baldassano's parents are prepared to risk their family home by posting the equity in said home as collateral for their son's release. Accordingly, this Court should revoke the order of detention and establish and order conditions for Mr. Baldassano's pre-trial release.

JOSEPH BALDASSANO
By his attorney,

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November 10, 2004